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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,862	12/22/2000	Fredrick J. Aley	17410-00008	3682

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EXAMINER	
ROBINSON BOYCE, AKIBA K	

ART UNIT	PAPER NUMBER
3639	

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

EA

Office Action Summary	Application No.	Applicant(s)	
	09/747,862	ALEY, FREDRICK J.	
	Examiner	Art Unit	
	Akiba K Robinson-Boyce	3639	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 March 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. Due to communications filed 3/10/05, the following is a final office action. Claims 1, 14, 15, 16, 22, 23 and 24 have been amended. Claims 1-26 are pending in this application and have been examined on the merits. The previous rejection has been withdrawn and the following reflects the claims as amended. Claims 1-26 are rejected as follows.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-10, 12-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Erwin et al (US 6,249,770), and further in view of Ando (US 6,032,125).

As per claim 1, Erwin et al discloses:

at least one computer, (col. 4, lines 47-49, computer);

a server configured with a plurality of spreadsheets to integrate a multi-year market forecast produced by the business, (Col. 2, lines 40-45 and lines 56-59, forecast parameters shown, Col. 3, lines 13-19, creates financial forecast for a pre-determined number of years for a company, col. 13, lines 39-44, shows a spreadsheet option), production and performance parameters, (col. 2, lines 31-33, performance of a company);

the server further configured to:

determine whether the production schedule includes periods of at least one of over production capacity and under production capacity, (col. 12, lines 40-43, shows inflation examples with determination of surplus or gain):

adjust the production schedule to account for the periods of at least one of over production capacity and under production capacity, (col. 11, lines 29-47, adjusting functionality using forecasting panel);

calculate a revenue for the business based on the adjusted production schedule, pricing data, and cost data, (col. 12, lines 40-51, adding the inflation adjustment to the income statement report calculation); and

automatically populate the plurality of spreadsheets to display at least the marketing forecast, the adjusted production schedule, a cost of goods sold per unit, and the revenue for the business, (col. 5, lines 33-38, provide user with spreads, w/ col. 11, line 65-col. 12, line 8, using auto input to populate forecasting panel); and

a network interconnecting said server to said computers, (Col. 2,line 67-col. 3, line 2, computer network).

Erwin et al fails to disclose:

receive from the at least one computer data relating to the business including marketing data, production data, product data, pricing data and cost data, wherein the marketing data includes a marketing forecast for a predetermined period of time, analyze the marketing forecast based on the production data, the product data and the cost data, output a production schedule and a cost of goods sold per unit based on the marketing forecast analysis, but does disclose receiving data from a computer in col. 2, lines 41-46.

However, Ando discloses:

receive from the at least one computer data relating to the business including marketing data, production data, product data, pricing data and cost data, wherein the marketing data includes a marketing forecast for a predetermined period of time, (Col. 1, lines 19-23, index, forecasting product demand info, sales plan info which includes pricing and cost data, production plan info, w/ col. 8, lines 15-19, pre-determined time);

analyze the marketing forecast based on the production data, the product data and the cost data, (Col. 1, lines 23-26, shows index of forecast is calculated from analysis of the fluctuation trend of sales).

output a production schedule and a cost of goods sold per unit based on the marketing forecast analysis, (Col. 4, lines 4-10, display production plan);

determine whether the production schedule includes periods of at least one of over production capacity and under production capacity, (Col. 2, line 66-Col. 3, line 3, shows level of production).

Ando discloses the above four limitations for the purpose of showing that marketing data, production data, product data and cost data can be specifically incorporated into the process of generating a marketing forecast

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to include the marketing data, production data, product data and cost data into the implementation and analysis of a marketing forecast, outputting a production schedule, and determining whether over or under production capacity with the motivation of being able to generate a marketing forecast containing these specific factors.

As per claims 2-6, and 16-20, Erwin et al does not specifically disclose determine/determining at least one of per unit and per brand costing [of materials, of labor, of utilities, of sales discounts], but does disclose the cost of goods sold in Fig 5.

However, Ando discloses:

Wherein said server is configured to determine at least one of per unit and per brand costing, (Col. 1, lines 14-15, sales unit price for a product, this costing includes costing of materials, of labor, of utilities, of sales discounts since all listed are part of the manufacturing process of a product). Ando discloses this limitation in an analogous art for the purpose of showing that the demand has an effect on the sales unit price of products.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to determine at least one of per unit and per brand costing [of

materials, of labor, of utilities, of sales discounts] with the motivation of determining the effect that this type of cost would have on a market forecast.

As per claims 7, 21, Erwin et al discloses:

wherein said server is further configured for input of operating expenses and fixed expenses for the business, (Col. 6, lines 37-39, cash flow of entity's operation).

As per claims 8, 22, Erwin et al discloses:

wherein said server is further configured to automatically show/comprising the step of determining impacts to Earnings Before Interest, Taxes, Depreciation and Amortization (EBITDA) as a result of any change to any parameter in marketing, finance, or production, (Col. 6, lines 39-43, shows use of operating earnings before income tax, where income from discontinued operation represents Depreciation and Amortization since in the marketing art, Depreciation and Amortization is debited as an expense in the profit section).

As per claims 9, 23, Erwin discloses wherein said server is configured to determine whether capacity for production is at capacity, below capacity, or above capacity using a scheduling analysis/determining whether the production schedule includes periods of at least one of over production capacity and under production capacity further comprises the step of determining whether capacity for production is at capacity, below capacity, or above capacity using a scheduling analysis, (col. 12, lines 40-43, shows inflation examples with determination of surplus or gain):

As per claims 10, 24, Erwin et al discloses:

Determine/determining a production schedule based on labor constraints and production restraints, (Col. 6, lines 37-43, creating a forecast from discontinued operations and non-recurring event information).

As per claims 12, 26, Erwin et al discloses:

wherein said server is configured to receive and store at least one of marketing data, production data, product data, pricing data and cost data/determining whether the production schedule includes periods of at least one of over production capacity and under production capacity further comprises the step of determining a production schedule based on labor constraints and production restraints, (col. 6,line 44 restructuring costs).

As per claim 13, Erwin et al discloses:

wherein said network is at least one of the Internet, an intranet, a local area network ILA&, a wide area network (WAN), dial-in-connections, cable modems and special high-speed ISDN lines, (Col. 3, lines 46-49, Internet).

As per claim 14, Erwin et al discloses:

wherein said server is configured to:

prompt a user to update at least one data point included in any of the marketing data, production data, product data, pricing data, and cost data, col. 12, lines 55-60, prompt user to add inflation adjustment); and

automatically re-populate the plurality of spreadsheets based on the at least one updated data point, (col. 5, lines 33-38, provide use with spreads, w/ col. 12, line 8, using auto input to populate forecasting panel).

As per claim 15, Erwin et al discloses:

uploading to the computer data relating to the business including marketing data, production data, product data, pricing data, and cost data, wherein the marketing data includes a marketing forecast for a predetermined period of time/storing the data within a database coupled to the computer, (Col. 2, lines 40-45, receives information about forecast parameters for a company);

determining whether the production schedule includes periods of at least one of over production capacity and under production capacity, (col. 12, lines 40-43, shows inflation examples with determination of surplus or gain);

adjusting the production schedule to account for the periods of at least one of over production capacity and under production capacity, col. 11, lines 29-47, adjusting functionality using forecasting panel);

calculating a revenue for the business based on the adjusted production schedule pricing data, and cost data, (col. 12, lines 40-51, adding the inflation adjustment to the income statement report calculation); and

automatically populating the plurality of spreadsheets to display at least the marketing forecast, the adjusted production schedule, a cost of goods sold per unit, and the revenue for the business, (col. 5, lines 33-38, provide user with spreads, w/ col. 11, line 65-col. 12, line 8, using auto input to populate forecasting panel);

Erwin et al fails to disclose:

analyzing using the computer the marketing forecast based on the production data, the product data and the cost data, outputting a production schedule and a cost of

goods sold per unit based on the marketing forecast analysis, determining whether the production schedule includes periods of at least one of over production capacity and under production capacity, but does disclose receiving data from a computer in col. 2, lines 41-46.

However, Ando discloses:

analyzing using the computer the marketing forecast based on the production data the product data and the cost data, (Col. 1, lines 23-26, shows index of forecast is calculated from analysis of the fluctuation trend of sales).

outputting a production schedule and a cost of goods sold per unit based on the marketing forecast analysis, (Col. 4, lines 4-10, display production plan);

Ando discloses the above limitations for the purpose of showing that production data, product data and cost data can be specifically incorporated into the process of generating a marketing forecast

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to include production data, product data and cost data into the implementation and analysis of a marketing forecast, and outputting a production schedule with the motivation of being able to generate a marketing forecast containing these specific factors.

4. Claims 11, 25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Erwin et al (US 6,249,770), and further in view of Ando (US 6,032,125), and further in view of Ainsbury et al (US 6,078,924).

As per claim 11, 25, neither Erwin et al nor Ando disclose wherein said server is

configured to notify a user of critical situations resulting from at least one of a marketing forecast, production schedule change, a product specification change and a change in production capability, but Erwin et al does disclose a system that determines a marketing forecast in col. 3, lines 13-19.

However, Ainsbury et al discloses:

wherein said server is configured to notify a user of critical situations resulting from at least one of a marketing forecast, production schedule change, a product specification change and a change in production capability, (col. 40, lines 61-66, error notices). Ainsbury et al discloses this limitation in an analogous art for the purpose of showing that notification can be sent to the user on changes.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to notify a user of critical situations resulting from at least one of a marketing forecast, production schedule change, a product specification change and a change in production capability with the motivation of informing the user of any critical change.

Response to Arguments

5. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 571-272-6734. The examiner can normally be reached on Monday-Tuesday 8:30am-5pm, and Wednesday, 8:30 am-12:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

QRB

A. R. B.
May 18, 2005

THOMAS A. DIXON
PRIMARY EXAMINER